



AN ACT REVISING THE MOTOR VEHICLE CODE TO INCLUDE OTHER ON-TRACK EQUIPMENT IN STATUTES CONCERNING APPROACHING TRAINS AT RAILROAD CROSSINGS AND SIGNALS; AND AMENDING SECTIONS 61-8-347, 61-8-348, 61-8-349, 61-8-350, 61-8-713, AND 61-8-813, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-347, MCA, is amended to read:

"61-8-347. Obedience to signal indicating approach of train or other on-track equipment. (1) When a person operating a vehicle approaches a railroad crossing under any of the circumstances stated in this section, the operator of the vehicle shall stop as close as practicable but not less than 15 feet from the nearest rail of the railroad and may not proceed until the operator can do so safely. These requirements apply when:

(a) a clearly visible electric or mechanical signal device gives warning of the presence or immediate approach of a railroad train or other on-track equipment;

(b) a crossing gate is lowered or when a flag person gives a signal of the approach or passage of a railroad train or other on-track equipment;

(c) a railroad train approaching within approximately 1,500 feet of the crossing emits a signal audible from that distance, except at crossings within quiet zones established under 69-14-620, indicating that the train is an immediate hazard because of its speed or nearness to the crossing; or

(d) an approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.

(2) A person may not operate a vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed."

Section 2. Section 61-8-348, MCA, is amended to read:

"61-8-348. All vehicles to stop at certain railroad grade crossings. (1) The department of transportation and local authorities in their respective jurisdictions may designate particularly dangerous highway

grade crossings of railroads and erect stop signs at these crossings. Where these stop signs are erected, the operator of a vehicle shall stop as close as practicable but not less than 15 feet from the nearest rail of the railroad and may proceed only upon exercising due care.

(2) The operator of a vehicle upon a highway outside of the limits of an incorporated city or town who is approaching a highway grade crossing where a flag person or a mechanical device is not in place or maintained to warn the public of approaching trains or other on-track equipment shall, before crossing the railroad tracks, stop the vehicle as close as practicable but not less than 15 feet from the nearest rail if:

(a) a curve in the tracks or vegetation or some other feature or characteristic obscures the view of approaching trains or other on-track equipment; or

(b) a moving train or other on-track equipment is within sight or hearing."

Section 3. Section 61-8-349, MCA, is amended to read:

"61-8-349. Certain vehicles to stop at all railroad grade crossings. (1) (a) Except as provided in subsection (1)(b), the driver of a motor vehicle carrying seven or more passengers for hire, a school bus with or without passengers, or a vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle as close as practicable but not less than 15 feet from the nearest rail of the railroad and while stopped shall open the door, ~~{in the case of a school bus}~~, and shall listen and look in both directions along the track for an approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment and may not proceed until the driver can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the operator of a vehicle may cross only in a gear of the vehicle that requires no changing gears while traversing the crossing. The operator may not shift gears while crossing the track or tracks.

(b) A stop is not required at a crossing where a police officer, highway patrol officer, or official traffic control device directs traffic to proceed.

(2) As used in this section, "official traffic control device" does not include a railroad grade crossing signal."

Section 4. Section 61-8-350, MCA, is amended to read:

"61-8-350. Moving heavy equipment at railroad grade crossings. (1) A person shall comply with the

provisions of this section before operating or moving upon or across the tracks at a railroad grade crossing any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure that has:

- (a) a normal operating speed of 10 or less miles an hour; or
- (b) a vertical body or load clearance measured above the surface of the roadway of:
 - (i) less than one-half inch for each foot of the distance between any two adjacent axles; or
 - (ii) at least 9 inches.

(2) Notice of an intended crossing must be given to a representative of the railroad and reasonable time must be given to the railroad to provide proper protection at the crossing.

(3) Before making a crossing, the person operating or moving the vehicle or equipment shall first stop the vehicle or equipment as close as practicable but not less than 15 feet from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for any approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment. The person may not proceed until the crossing can be made safely.

(4) A crossing may not be made when warning is given by automatic signal, crossing gates, a flag person, or other official traffic control device of the immediate approach of a railroad train or car or other on-track equipment. If a flag person is provided by the railroad, movement over the crossing must be under the flag person's direction."

Section 5. Section 61-8-713, MCA, is amended to read:

"61-8-713. Injury to or removal of sign or marker as misdemeanor -- penalty. (1) A person who maliciously injures, defaces, damages, or removes any sign, signal, or marker, either temporarily or permanently erected on the right-of-way of any secondary, state, or interstate highway for warning, instruction, or information of the public, is guilty of a misdemeanor and upon conviction shall be punished by a fine of \$250, by imprisonment in the county jail for a period not exceeding 60 days, or both. This section applies to secondary, state, or interstate highways that are completed and to secondary, state, or interstate highways that are under construction or repair.

(2) A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia on or part of the sign or device.

(3) As used in this section, "railroad sign or signal" means any sign, signal, or device erected by authority

of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train or other on-track equipment."

Section 6. Section 61-8-813, MCA, is amended to read:

"61-8-813. Suspension of commercial driver's license -- railroad crossing offenses. (1) The department shall suspend a person's commercial driver's license upon the report of a conviction of any of the following railroad crossing offenses or conduct:

(a) for drivers who are not required to always stop:

(i) failing to slow down and check that the tracks are clear of an approaching train or other on-track equipment; or

(ii) failing to stop before reaching the crossing if the tracks are not clear;

(b) for drivers who are always required to stop, failing to stop before driving onto the crossing;

(c) for all drivers:

(i) failing to have sufficient space to drive completely through the crossing without stopping;

(ii) failing to obey a traffic control device or the directions of an enforcement official at the crossing; or

(iii) failing to negotiate a crossing because of insufficient undercarriage clearance.

(2) Upon receipt of a report of a conviction of any railroad crossing offense or conduct described in subsection (1), the following suspension periods must be imposed:

(a) 60 days upon a first conviction;

(b) 120 days upon a second conviction within a 3-year period; or

(c) 1 year upon a third or subsequent conviction within a 3-year period."

- END -

I hereby certify that the within bill,
HB 0371, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 371

INTRODUCED BY COHENOUR, BARKUS, GETZ, WILSON

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